

REMARKS

Claims 30, 32-35 and 38-50 are presently pending. Claims 1-29, 31, 36 and 37 have been canceled. Claims 30 and 32-38 have been amended. Claim 39-50 have been added.

Applicant respectfully requests the Examiner to reconsider the application in view of the following remarks and the foregoing amendments, which Applicant believes places the application in better form for allowance.

It is noted that claims 30, 32-35 and 38 have not been amended for reasons relating to patentability. Rather, these claims have been amended to make them more commensurate with the original claims so as to render moot the Examiner's assertion that these claims are subject to restriction.

In addition, claims 1-29, 31, 36 and 37 have not been canceled for reasons relating to patentability. Rather these claims have been canceled and essentially replaced by new claims in order to make the claims in this application in a form that direct infringement can be more readily asserted against a single party. The original claims required the involvement of multiple, likely unrelated parties for direct infringement to occur. Generally, claims 30, 32-34 and 39-42 are directed to entities, e.g., suppliers, that provide such a system, claims 35, 38 and 43-46 are directed to those, e.g., distributors, that instruct (potential customers) to use such a system and claims 47-50 are directed to customers and potential customers that use such a system.

Election/Restriction

The Examiner has stated that claims 30-38 newly added in the Response to the immediately previous Office Action are subject to a restriction/election requirement since they are directed to an invention that is independent or distinct from the invention originally claimed. Consequently, the Examiner has withdrawn these claims from consideration.

As mentioned in the preceding section, Applicant has amended claims 30, 32-35 and 38 so as to be directed essentially to the same invention of original claims 1-29. Therefore, Applicant respectfully submits that the decision to withdraw claims 30, 32-35 and 38 from consideration is moot.

Rejection under 35 U.S.C. § 103

The Examiner has again rejected claims 1-29 under 35 U.S.C. § 103 as being obvious in view of U.S. Patent No. 6,388,050 to Conklin et al. and ordinary skill in the art, stating that Conklin et al. disclose all of the broad concepts of these claims but not some of the details of these claims. The Examiner then asserts that these details would have been obvious to a person having ordinary skill in the art at the time of the invention.

Applicant has canceled claims 1-29. Therefore, the present rejection is moot. As mentioned above, however, the subject matter of canceled claims 1-29 is essentially present in amended claims 30, 32-35 and 38, as well as in new claims 39-50. Therefore, Applicant addresses immediately below the Examiner's rejection in the context of claims 30, 32-35 and 38-50.

Patentability of Claims 30, 32-35 and 38-50

Applicant asserts that claims 30, 32-35 and 38-50 are clearly patentable over all of the references of record, including the Conklin et al. patent, alone and in various combinations with one another and/or ordinary skill in the art. Since the Examiner has again rejected the claims in view of the Conklin et al. patent, Applicant particularly addresses this rejection below.

A "Site-Code" Is Not a URL

In the rejections of this and the immediately prior Office Actions, the Examiner appears to assert that a "site-code" is synonymous with a URL, i.e., it is merely an address for accessing a particular page of a Website. This is not true. The term "site-code" is a term coined by Applicant to denote a unique and private identifier that, when entered into a site-code field and processed by a Website, provides access to custom information not available to anyone not privy to the secret access code. A site-code generally has attributes of a URL in that it can provide access to a customized Web page, but it also has attributes of a password in that it is not intended to be public, but rather only to be known by certain individuals (i.e., private, or secret), e.g., the owner of a distributorship, (potential) customers of the distributorship and the supplier. Consequently, a site-code is much more than a URL or any other publicly known access means that Conklin et al. may provide their system for allowing customers to access information about suppliers.

Applicant notes that the use of this coined term does not contradict the meaning of either of the words "site" or "code" individually. Regarding the word "site," this word has the same meaning in the term "site-code" as it does in its conventional World Wide Web context. Regarding the word "code," this word is often used in the context of something secretive. One definition of the word "code" is a system of words, figures, or symbols used to represent others, especially for the purposes of secrecy." Compact Oxford Dictionary, www.askoxford.com (Emphasis added) (Web page attached). In addition, the word "code" has come to be known, at least colloquially, to mean a secret string of letters and/or numbers used, e.g., to activate or deactivate a device, such as a digital lock or alarm system. For example, the string of numbers used to disarm a digital alarm system is often referred to as the "disarm code." In this context, the word "code" has a meaning virtually the same as the word "password." "Site-codes" and disarm codes are, obviously and in contrast to URLs, things that are not public. In view of this, Applicant asserts that the proper meaning of "site-code" in determining whether the present claims are patentable must include the privacy aspect of the site-code.

The Present Invention

One embodiment of the present invention is implemented in a supplier/distributor context, in which a number of independent representatives or distributors may advertise and sell products of the supplier, perhaps in competition with one another. Since it may be inefficient or impractical for each distributor to have its own Website where customers can be directed to view information about the distributor and the products and/or purchase the products from the distributor, the supplier may maintain a common Website that contains information common to all of the distributors, as well as a set of information specific to each one of the distributors. As discussed in the present patent application, this specific information may include, e.g., a distributor header that is displayed on each page of the Website once a customer or potential customer has input the appropriate site-code into a site-code field on a distributor access page of the supplier's Website.

The distributor access page would typically not include information about any of the distributors. Recall that in one scenario, the distributors are in competition with each other. Therefore, a distributor that asks a (potential) customer to visit the Website would not want the

customer to know about other distributors. Otherwise, that distributor could lose the customer to another distributor. In this example, this is the impetus behind the site-code/site-code input field concept. When one of the distributors deals with a particular (potential) customer, the distributor typically first provides the customer with the URL for the distributor access page and then provides the customer with the distributor's unique site-code, which is generally a private, or secret, code that the customer must enter into the site-code field on the distributor access page in order to view Web pages customized to the distributor having that site-code. The distributor would then instruct the customer on how to use the site-code to access the information customized to the distributor.

Once the customer visits the Webpage and has input the site-code into the site-code field of the distributor access page, the customer may be directed to a page that includes information about the supplier's products being sold by the distributor, as well as includes a page header containing information, e.g., name, about that particular distributor. If this or another of the distributor's pages allows the customer to place an order, the order may be send directly to the supplier, and, as a result of the customer using the private site code, the distributor may automatically get credit for that sale, e.g., the supplier may pay a commission to the distributor for the order placed by the customer. In this system, other distributors would provide their customers with their own unique, private site-codes in a similar manner to allow their customers to access the distributors' customized Web page(s) and to allow the distributors to get credit for sales to their own customers.

As a real-world example, a company, such as Mary Kay Cosmetics, that typically sells to customers through a hierarchical marketing network could easily utilize a system and method of the present invention. Generally, at the lower levels, the Mary Kay network includes sales representatives that often sell Mary Kay products in the same or overlapping territories. Using the present invention, the Mary Kay corporation or a regional manager for example, could maintain a corporate or regional Website that would provide Web pages customized for each of the sales representatives. In accordance with the present invention, access to these customized pages could be enabled by the Website providing a sales representative access page, which would display a site-code field that a customer would use to input the unique, private site-code of

her particular sales representative. Prior to using the Website, the sales representative would have to, in accordance with the present invention, instruct the customer to access the sales representative access page, provide the customer with the secret site-code and instruct the customer to access the distributor-customized pages by inputting the site-code into the site-code field on the sales representative access page. After the customer has input the site-code, the Website would display any one or more of the Web pages that are customized to the customer's personal sales representative.

The Conklin et al. System

As discussed in detail in a prior Response, Conklin et al. disclose a multivariate negotiations system that allows buyers and sellers, among others, to negotiate with one another relative to a plurality of terms of various types of agreements, e.g., sales contracts, in an on-line forum. Central to the Conklin et al. system is a multivariate negotiations engine that drives the negotiation functionality.

Also as discussed in the prior Response, Conklin et al. appear to be completely silent on how customers or potential customers link to Web pages relating to a particular buyer in order to conduct multivariate negotiations. One thing is clear, however. Conklin et al. do not disclose or so much as remotely suggest that customers access sellers' pages using secret access codes, i.e., site-codes. In contrast, Conklin et al. disclose that it is important to make information about, and access to, sellers' Web pages as widely known as possible. In fact, Conklin et al. particularly mention that a problem with potential customers and sellers prior to their system was that it was very difficult for potential customers to locate sellers. Conklin et al. purport to solve this problem by providing their system with the ability to automatically update search engines with information that allows a potential buyer to more easily find potential sellers. This notion of wide dissemination of information about sellers is in direct contrast to the use of secretive site-codes taught by the present invention.

Conklin et al. Do Not Disclose or Suggest Use of Secret Site-Codes

As just mentioned, Conklin et al. do not so much as suggest using secretive site-codes to allow access to customized information. Applicant maintains that the only way to assert that it would be obvious to utilize secretive site-codes in the Conklin et al. system would be to use

hindsight of the present invention. This level of hindsight is improper in formulating an obviousness-type rejection. Consequently, Applicant asserts that the combination of Conklin et al. and ordinary skill in the art cannot render obvious presently pending claims 30, 32-35 and 38-50.

Applicant notes that the coined term "site-code" should be given the plain and ordinary meaning that is evident from the disclosure of the present application. That is, Applicant asserts that "site-code" should be interpreted to include some measure of secrecy, which URLs, among other things, do not have. If the Examiner disagrees with Applicant on this point, Applicant notes that claims 35 and 38 particularly use the term "private site-code" in order to define over the Conklin et al. system. If the Examiner believes that the addition of the word "private" to the remaining claims will put them in condition for allowance, Applicant gives the Examiner permission to make the changes by an Examiner's Amendment.

Analysis of the Present Independent Claims Relative to the Conklin et al. Patent

Amended independent claim 30 and new independent claim 39 are each directed to a system of the present invention that includes, among other things, a group Website that is operatively configured to display customized information of a distributor (or individual business owner in the case claim 39) in response to a potential customer inputting into a site-code field of the Website the unique site-code of the distributor. This claim includes at least two features not disclosed or suggested by Conklin et al. First, the system of each of claims 30 and 39 includes an input field in which a potential customer inputs the secret site-code of the corresponding distributor. Conklin et al. are completely silent on such an input field. Second, the system of claim 30 contains a Website operatively configured to display customized information in response to the potential customer inputting the secret site-code. This requires the Website to include programmed computer instructions for linking the secret site-code to the corresponding customized information and then displaying the customized information to the potential customer. Conklin et al. simply do not disclose or suggest a Website that includes such programmed instructions for processing a secret site-code and, therefore, do not disclose or suggest a Website operatively configured to display customized information in response to the potential customer inputting the secret site-code. Again, only an improper level of hindsight of

claims 30 and 39 would be needed to assert that the system of the respective claim is obvious in view of the Conklin et al. patent and ordinary skill in the art.

Amended independent claim 35 and new independent claim 43 are each directed to a method of accessing business information that includes providing a potential customer with a (private) site-code and instructing the potential customer to access the business information by visiting a group Website and inputting the secret site-code into a site-code input field. Conklin et al. are completely silent on accessing business information using secret site-codes. To the contrary, Conklin et al. emphasize the need for sellers' Websites to be more visible and accessible to potential buyers. Consequently, Applicant asserts that only an improper level of hindsight of claims 30 and 39 would be needed to assert that the system of the respective claim is obvious in view of the Conklin et al. patent and ordinary skill in the art.

New independent claims 45 and 48 are each directed to a method of accessing custom business information that includes visiting a group Website having a site-code input field and inputting into the input field provided by the Website a site-code corresponding to the custom business information so as to access the custom business information. As discussed above, Conklin et al. are completely silent on providing a Website having a site-code input field and using a site-code, which is secret, to access custom business information. Consequently, Conklin et al. are also completely silent on the steps of visiting a group Website having a site-code input field and inputting into the input field provided by the Website a site-code corresponding to the custom business information so as to access the custom business information. Again, only an improper level of hindsight of claims 45 and 48 would be needed to assert that the methods of these claims are obvious in view of the Conklin et al. patent and ordinary skill in the art.

Conclusion

In view of the foregoing, Applicant respectfully submits that claims 30, 32-35 and 38-50, as amended, are in condition for allowance. Therefore, prompt issuance of a Notice of Allowance is respectfully solicited. If any issues remain, the Examiner is encouraged to call the undersigned attorney at the number listed below.

Respectfully submitted,
IPCAPITAL GROUP, INC.

By: 

Morgan S. Heller II
Registration No.: 44,756
Down Rachlin Martin PLLC
Tel: (802) 863-2375

Attorneys for Applicant

Attachment:

Copy of Web page from www.askoxford.com

BTV.382449.1